

his right to appeal in accordance with the provisions of part 103 of this chapter.

[23 FR 9126, Nov. 26, 1958 and 32 FR 9636, July 4, 1967, as amended at 36 FR 11636, June 17, 1971; 45 FR 38340, June 9, 1980]

PART 343c—CERTIFICATIONS FROM RECORDS

AUTHORITY: 5 U.S.C. 552 (80 Stat. 383); as amended by Pub. L. 93-502 (88 Stat. 1561); sec. 103 Immigration and Nationality Act (66 Stat. 173; 8 U.S.C. 1103).

§ 343c.1 Application for certification of naturalization record of court or certificate of naturalization or citizenship.

An application for certification of a naturalization record of any court, or of any part thereof, or of any certificate of naturalization, repatriation, or citizenship, under section 343(e) of the Act for use in complying with any statute, Federal or State, or in any judicial proceeding, shall be made on Form G-641.

[40 FR 50703, Oct. 31, 1975]

PART 349—LOSS OF NATIONALITY

AUTHORITY: Sec. 103, 66 Stat. 173; 8 U.S.C. 1103. Interprets or applies 401(i), 54 Stat. 1169; 8 U.S.C. 801, 1946 ed.

§ 349.1 Japanese renunciation of nationality.

A Japanese who renounced United States nationality pursuant to the provisions of section 401(i), Nationality Act of 1940, who claims that his renunciation is void, shall complete Form N-576, Supplemental Affidavit to be Submitted with Applications of Japanese Renunciants. The affidavit shall be submitted to the Assistant Attorney General, Civil Division, Department of Justice, Washington, DC 20530, with a covering letter requesting a determination of the validity of the renunciation.

[32 FR 9636, July 4, 1967]

PART 392—SPECIAL CLASSES OF PERSONS WHO MAY BE NATURALIZED: PERSONS WHO DIE WHILE SERVING ON ACTIVE DUTY WITH THE UNITED STATES ARMED FORCES DURING CERTAIN PERIODS OF HOSTILITIES

Sec.

392.1 Definitions.

392.2 Eligibility for posthumous citizenship.

392.3 Application for posthumous citizenship.

392.4 Issuance of a certificate of citizenship.

AUTHORITY: 8 U.S.C. 1103, 1440 and note, and 1440-1; 8 CFR part 2.

SOURCE: 56 FR 22822, May 17, 1991, unless otherwise noted.

§ 392.1 Definitions.

As used in this part:

Active-duty status means full-time duty in the active military service of the United States, and includes full-time training duty, which constitutes qualifying service under section 329(a) of the Act. Active service in the United States Coast Guard during one of the periods of hostilities specified herein shall constitute service in the military, air, or naval forces of the United States. Active-duty status also includes annual training duty and attendance, while in the active military service, at a service school designated by the military authorities under 10 U.S.C. 101(22). The order of a national guardsman into active duty for training under 10 U.S.C. 672 constitutes service in active-duty status in the military forces of the United States. Active duty in a noncombatant capacity is qualifying service.

Decedent means the person on whose behalf an application for a certificate of posthumous citizenship is made.

Induction, enlistment, and reenlistment, refer to the decedent's place of entry into active duty military service.

Korean Hostilities relates to the period from June 25, 1950, to July 1, 1955, inclusive.

Lodge Act means the Act of June 30, 1950, which qualified for naturalization nonresident aliens who served honorably for 5 years in the United States Army during specified periods, notwithstanding that they never formally

became lawful permanent residents of the United States.

Next-of-kin means the closest surviving blood or legal relative of the decedent in the following order of succession:

- (1) The surviving spouse;
- (2) The decedent's surviving son or daughter, if the decedent has no surviving spouse;
- (3) The decedent's surviving parent, if the decedent has no surviving spouse or sons or daughters; or,
- (4) The decedent's surviving brother or sister, if none of the persons described in paragraphs (1) through (3) of this definition survive the decedent.

Other periods of military hostilities means any period designated by the President under Executive Order as a period in which Armed Forces of the United States are or were engaged in military operations involving armed conflict with a hostile foreign force.

Representative means:

- (1) The duly appointed executor or administrator of the decedent's estate, including a special administrator appointed for the purpose of seeking the decedent's naturalization; or,
- (2) The duly appointed guardian, conservator, or committee of the decedent's next-of-kin; or,
- (3) A service organization listed in 38 U.S.C. 3402, or chartered by Congress, or State, or other service organization recognized by the Department of Veterans Affairs.

Vietnam Hostilities relates to the period from February 28, 1961, to October 15, 1978, inclusive.

World War I relates to the period from April 6, 1917, to November 11, 1918, inclusive.

World War II relates to the period from September 1, 1939, to December 31, 1946, inclusive.

§ 392.2 Eligibility for posthumous citizenship.

(a) *General.* Any alien or noncitizen national of the United States is eligible for posthumous United States citizenship who:

- (1) Served honorably in an active-duty status with the military, air, or naval forces of the United States during World War I, World War II, the Korean Hostilities, the Vietnam Hos-

tilities, or in other periods of military hostilities designated by the President under Executive Order; and,

- (2) Died as a result of injury or disease incurred in or aggravated by service in the United States Armed Forces during a period of military hostilities listed in paragraph (a)(1) of this section. Where the person died subsequent to separation from military service, the death must have resulted from an injury or disease that was sustained, acquired, or exacerbated during active-duty service in a qualifying period of military hostilities as specified in this part.

(b) *Qualifying enlistment.* In conjunction with the qualifying service as described in paragraph (a)(1) of this section, the decedent must have:

- (1) Enlisted, reenlisted, or been inducted in the United States, the Canal Zone, American Samoa, or Swains Island;
- (2) Been lawfully admitted to the United States for permanent residence, at any time; or,
- (3) Enlisted or reenlisted in the United States Army pursuant to the provisions of the Lodge Act. In such case, the decedent shall be considered to have been lawfully admitted to the United States as a permanent resident for purposes of this section, provided he or she:

- (i) Entered the United States, its outlying possessions, or the Canal Zone, at some time during the period of army service, pursuant to military orders; and

- (ii) Was honorably discharged following completion of at least 5 full years of active duty service, even though the active-duty service may not have occurred during a qualifying period of hostilities specified in section 329(a) of the Act.

(c) *Character of military service.* Where the character of military service is not certified as honorable by the executive department under which the person served, or where the person was dishonorably discharged or discharged under conditions other than honorable, such service shall not satisfy the requirement of paragraph (a)(1) of this section.

(d) *Certification of eligibility.* (1) The executive department under which the

decendent served shall determine whether:

- (i) The decendent served honorably in an active-duty status;
- (ii) The separation from such service was under honorable conditions; and,
- (iii) The decendent died as a result of injury or disease incurred in, or aggravated by active duty service during a qualifying period of military hostilities.

(2) The certification required by section 329A(c)(2) of the Act to prove military service and service-connected death shall be requested by the applicant on Form N-644, Application for Posthumous Citizenship. Form N-644 shall also be used to verify the decendent's place of induction, enlistment or reenlistment.

§ 392.3 Application for posthumous citizenship.

(a) *Persons who may apply.* (1) Only one person who is either the next-of-kin or another representative of the decendent shall be permitted to apply for posthumous citizenship on the decendent's behalf. A person who is a next-of-kin who wishes to apply for posthumous citizenship on behalf of the decendent, shall, if there is a surviving next-of-kin in the line of succession above him or her, be required to obtain authorization to make the application from all surviving next-of-kin in the line of succession above him or her. The authorization shall be in the form of an affidavit stating that the affiant authorizes the requester to apply for posthumous citizenship on behalf of the decendent. The affidavit must include the name and address of the affiant, and the relationship of the affiant to the decendent.

(2) When there is a surviving next-of-kin, an application for posthumous citizenship shall only be accepted from a representative provided authorization has been obtained from all surviving next-of-kin. However, this requirement shall not apply to the executor or administrator of the decendent's estate. In the case of a service organization acting as a representative, authorization must also have been obtained from any appointed representative. A veterans service organization

must submit evidence of recognition by the Department of Veterans Affairs.

Once the Service has granted posthumous citizenship to a person, no subsequent applications on his or her behalf shall be approved, nor shall any additional original certificates be issued, except in the case of an application for issuance of a replacement certificate for one lost, mutilated, or destroyed.

(b) *Filing of application.* (1) An application for posthumous citizenship shall be submitted by mail on Form N-644, according to the instructions on the form, to the INS Service Center having jurisdiction over the applicant's state of residence. Persons residing outside the United States must mail their applications to any one of the four Service Centers.

(2) Form N-644 must be accompanied by the appropriate fee specified by and remitted in accordance with the provisions of § 103.7 (a) and (b) of this chapter. The fee may not be waived or refunded. To facilitate the certification process, a legible copy of each of the following documents, if available, should be submitted with Form N-644:

- (i) DD Form 214, Certificate of Release or Discharge from Active Duty;
- (ii) DD Form 1300, Report of Casualty/Military Death Certificate; or,
- (iii) Other military or State-issued death certificate.

(c) *Application period for requesting posthumous citizenship.* Form N-644 shall be filed with the appropriate INS Service Center not later than March 5, 1992, or 2 years after the date of the person's death, whichever date is later.

(d) *Denial of application.* When the application is denied, the applicant shall be notified of the decision and the reason(s) for denial. There is no appeal from the denial of an application under this part.

§ 392.4 Issuance of a certificate of citizenship.

(a) *Approval of application.* If the application (Form N-644) is approved, the director of the Service Center shall issue a Certificate of Citizenship, Form N-645, to the applicant, in the name of the decendent.

(b) *Delivery of certificate.* Delivery of the Certificate of Citizenship shall be

made by registered mail to the address designated by the applicant. If the applicant resides outside the United States, the certificate shall be sent by registered mail to the Service office abroad, if one is located where delivery is to be made; otherwise, it shall be forwarded to the nearest American Embassy or Consulate.

(c) *Effective date of citizenship.* Where the Service has approved an Application for Posthumous Citizenship (Form N-644), the decedent shall be considered a United States citizen as of the date of his or her death.

(d) *Ineligibility for immigration benefits.* The granting of posthumous citizenship under section 329A of the Immigration and Naturalization Act, as amended, and issuance of a certificate under paragraph (a) of this section, shall not entitle the surviving spouse, parent, son, daughter, or other relative of the decedent to any benefit under any provision of the Act. Nor shall such grant make applicable the provisions of section 319(d) of the Act to the surviving spouse.

(e) *Replacement certificate.* An application for a replacement Certificate of Citizenship (Form N-645) shall be made on Form N-565, Application for a New Naturalization or Citizenship Paper, for a lost, mutilated, or destroyed certificate. Form N-565 shall be completed according to the instructions on the form and submitted by mail with the appropriate fee to the INS Service Center having jurisdiction over the applicant's state of residence. Persons residing outside the United States must mail their application to the Service Center that issued the original certificate.

PART 499—NATIONALITY FORMS

AUTHORITY: 8 U.S.C. 1103; 8 CFR part 2.

§ 499.1 Prescribed forms.

The forms listed below are prescribed for use in compliance with the provisions of subchapter C of this chapter. To the maximum extent feasible, the forms used should bear the edition date shown or a subsequent edition date.

Form No.	Edition date	Title and description
M-288	12-30-87	United States History 1600-1987, Level II.
M-289	12-31-87	United States History 1600-1987, Level I.
M-290	01-01-90	U.S. Government Structure, Level II.
M-291	12-31-87	U.S. Government Structure, Level I.
M-302	03-16-89	For the People * * *, U.S. Citizenship Education and Naturalization Information.
M-303	03-16-89	By the People * * *, U.S. Government Structure.
M-304	03-16-89	Of the People * * *, U.S. History 1600-1988.
N-3	01-30-83	Requisition for Forms and Binders.
N-4	12-14-93	Monthly Report—Naturalization Papers Forwarded.
N-300	10-01-91	Application to File Declaration of Intention.
N-335	10-24-91	Decision on Application for Naturalization.
N-336	10-24-91	Request for Hearing on a Decision in Naturalization Proceedings under section 336 of the Act.
N-400	07-17-91	Application for Naturalization.
N-404	08-01-65	Request for Withdrawal of Petition for Naturalization.
N-410	09-07-89	Motion for Amendment of Petition (application).
N-425	02-12-82	Notice to Petitioner of Proposed Recommendation of Denial of Petition for Naturalization.
N-426	05-12-77	Request for Certification of Military or Naval Service.
N-445	01-08-92	Notice of Naturalization Oath Ceremony.
N-455	04-11-91	Application for Transfer of Petition for Naturalization.
N-459	12-15-58	Authorization to Clerk of Court to Correct Certificate of Naturalization.
N-470	04-11-91	Application to Preserve Residence for Naturalization Purposes.
N-472	04-05-82	Notice of Approval of Application to Preserve Residence.
N-480	02-05-68	Naturalization Petitions Recommended to be Granted (and Order of Court Granting Petitions for Naturalization.
N-481	09-20-67	Naturalization Petitions Recommended to be Granted (Continuation Sheet).
N-484	02-05-68	Naturalization Petitions Recommended to be Denied (and Order of Court Denying Petitions for Naturalization.
N-485	02-05-68	Naturalization Petitions Recommended to be Granted (on behalf of children) (and) Order of Court Granting Petitions for Naturalization.
N-550	06-30-91	Certificate of Naturalization.